



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

Craig W. Hiltz, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
John Lee, Associate Member

DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 14-18

APPLICANT
Andrew Pelletier

LOCATION OF PROPERTY INVOLVED
183 High Street, Walpole, MA and shown on the Assessors Map 17 and Parcel 384, Zoning
District: Rural (R)

APPLICATION

A Variance under Section 6.B-1 of the Zoning Bylaw to allow a reduction in the required circle diameter of eighty percent of the required frontage (200') from 160 feet to 155 feet in order to convey a 195 square feet (s.f.) piece of land to the abutting landowner to resolve a driveway encroachment and eliminate an existing right of way, located at 183 High Street, Walpole, MA 02081

On July 25, 2018, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Variance** for the relief requested.

The following members were present and voting:

Craig W. Hiltz, Vice Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member

A motion was made by Murphy and seconded by Coffey to grant a Variance from Section 6.B-1. of the Zoning Bylaw to allow a reduction in the required circle diameter of eighty percent of the required frontage (200') from 160 feet to 155 feet in order to convey a 195 s.f. piece of land to the abutting landowner to resolve a driveway encroachment and eliminate an existing right of way, located at 183 High Street, Walpole, MA 02081

The vote was **4-0-0 in favor** (Hiltz, Coffey, Fitzgerald, Murphy voting); therefore the application for a **Variance** under Section 6.B-1 is hereby **granted**, subject to the following conditions:

135 School Street, Walpole, MA 02081

CONDITIONS

1. Applicant shall comply with any applicable requirement, if any, to file an "Approval Not Required" Plan or ANR Plan to effectuate the change in lot lines accommodated as a result of the relief granted in this decision. To the extent an ANR Plan is required, any changes to the plan submitted at the Public Hearing entitled, "Zoning Board of Appeals Application of Andrew Pelletier 183 High Street Walpole, Massachusetts" prepared by Norwood Engineering, dated May 8, 2018, the Applicant shall present such plan changes to the Zoning Board of Appeal for review and approval.

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements for the granting of a Variance, as per the following:

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The property located at 183 High Street, Walpole, MA 02081 has a unique shape due to its unusual narrowing as it approaches the street frontage and also is elongated, with the property curving towards the frontage. There is a right of way that is located down the center of the current driveway, and a reduction in the required circle diameter would increase the existing neighboring side yard from 14.6 feet 19.6 feet, and bring the properties closer in conformance with applicable side yard requirements. Also, the 155' foot circle proposed is 77.5 percent of the 200' feet of required frontage, which is not substantially lower than the eighty percent that would satisfy the current bylaw requirement. The sale of the land to the abutting property owner would resolve a conflict between the Applicant and the neighbor regarding the existing right of way by allowing the transfer of a portion of the driveway to the abutting property owners land (199 High Street) instead of a right of way running down the center of a lot line.

2. *Desirable relief may be granted without substantial detriment to the public good.*

As noted above, the granting of a variance would improve increase the currently deficient side yard, therefore offering more protection of the neighbors, and supporting/encouraging harmony in the neighborhood, along with remaining in character with the neighborhood.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The reduction in the circle diameter would increase the existing neighboring side yard from 14.6' feet to 19.6' feet, and bring the properties closer in conformance with current requirements, and the property would remain in character of the neighborhood. Furthermore, the increase in the side yard would encourage and support harmony in the neighborhood, therefore not nullifying or derogating from the intent or purpose of the bylaw. No opposition to the grant of the variance was voiced at the Public Hearing.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

* * * * *

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

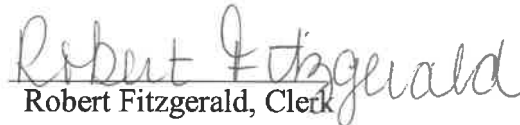
Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has

been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk



RF/am

cc: Town Clerk	Engineering	Planning Board	Applicant
Board of Selectmen	Building Inspector	Conservation Commission	Abutters

This decision was made on July 25, 2018 and filed with the Town Clerk on August 7, 2018